



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Trenton D. Weeks, DC

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-13-1722

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

March 7, 2013

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "This is a request for Medical Fee Dispute Resolution. This examination was performed for the purpose of determining MMI and Impairment as it related to the work injury ... DWC-TWCC affords the injured employees' assignment of MMI and Impairment by certified doctor. This evaluation and report does not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements in accordance with Labor Code §413.014 and is subject to reimbursement with Labor Code §408.0041 (f-2)(h)(1). Texas Department of Insurance prohibits examining doctors who work for networks from performing this type of evaluation. Therefore, Dr. Weeks is Independent and not affiliate [sic] with any Insurance or Network. Upon evaluation, it was determined that the above named claimant has not reached MMI. Pursuant to RULE §134.204 in accordance with (j)(2)(A)(3)(C) of the Medical Fee Guidelines, An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

**Amount in Dispute:** \$350.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The requestor is not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §§133.305 and 133.307.

Division Rule 133.1 specifically provides that Subchapter D of chapter 133 (relating to Dispute of Medical Bills) does *not* apply to health care services provided to an injured employee subject to a workers' compensation health care network established under Chapter 1305.

This claim is in Texas Mutual's Texas Star Network (Network)...

The requestor conducted an examination of the claimant on 09/12/2012. This claim is in the Network... The requestor is not a participating health care provider in the Network nor does he claim to be...

The requestor cites in his position statement Texas Labor Code provisions that apply to designated doctors. However, Dr. Trenton Weeks, the doctor who performed the examination, did not perform the examination as a

designated doctor or an RME doctor. Accordingly, his arguments related to non-network affiliation and requirements to pay designated doctors do not apply in this case.

Because there is no evidence presented of approval of the out-of-network referral, Texas Mutual is not liable for payment.”

**Response Submitted by:** Texas Mutual Insurance Company

### ***SUMMARY OF FINDINGS***

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 12, 2012	Examination to determine MMI/IR by a referral doctor	\$350.00	\$0.00

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers’ Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.1 defines the sections that are not applicable to claims subject to a workers' compensation health care network established under Insurance Code Chapter 1305.
3. 28 Texas Administrative Code §127.140 defines disqualifying associations for designated doctors.
4. Texas Insurance Code Chapter 1305 sets out the procedures for network claims.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - CAC-38 – Services not provided or authorized by designated (network/primary care) providers.
  - 727 – Provider not approved to treat Texas Start Network claimant.
  - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 724 – No additional payment after a reconsideration of services.

#### **Issues**

1. Are the insurance carrier’s reasons for denial or reduction of payment supported?
2. Would a network association for the requestor create a disqualifying association?
3. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

#### **Findings**

1. The insurance carrier denied disputed services with claim adjustment reason code CAC-38 – “Services not provided or authorized by designated (network/primary care) providers,” and 727 – “Provider not approved to treat Texas Start Network claimant.” Review of the submitted documentation supports that the claim involved in this dispute is part of the Texas Star Network, established under Texas Insurance Code 1305.

28 Texas Administrative Code §133.1(a) states,

This chapter applies to medical billing and processing for health care services provided to injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305, and to injured employees not subject to such networks, **with the following exceptions pertaining only to health care services provided to an injured employee subject to a workers' compensation health care network established under Chapter 1305** [emphasis added]:

- (1) Subchapter D of this chapter (relating to Dispute of Medical Bills)...

Texas Insurance Code Section 1305.006 states, in pertinent part, “(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103.”

Further, Texas Insurance Code Section 1305.103 requires that

(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network...

The requestor has the burden to prove that it obtained the appropriate approved out-of-network referral for the out-of-network healthcare it provided. Review of the submitted documentation does not support that the referral from the treating doctor was approved by the network to treat the injured employee. The Division concludes that the requestor has failed to meet the requirements of Texas Insurance Code Section 1305.103. Therefore, the insurance carrier’s denial reasons are supported.

2. The requestor disagrees and states that “Texas Department of Insurance prohibits examining doctors who work for networks from performing this type of evaluation.” 28 Texas Administrative Code §127.140(a) states,

A disqualifying association is any association that may reasonably be perceived as **having potential to influence the conduct or decision of a designated doctor** [emphasis added]. Disqualifying associations may include: ...

(6) a contract with the same workers' compensation health care network certified under Chapter 1305, Insurance Code or a contract with the same political subdivision or political subdivision health plan under Labor Code §504.053(b)(2) that is responsible for the provision of medical benefits to the injured employee.

Thus, the disqualifying association that the requestor references, applies only to designated doctors. Review of the submitted documentation does not find that the examination was ordered by the Division. Therefore, the requestor was not acting as a designated doctor and being in the network would not create a disqualifying association.

3. The Division finds that the requestor failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Laurie Garnes  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
July 14, 2016  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**